UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,301	09/24/2001	Ichiyou Shiga	1538.1018	4757

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EXAMINER
SHEPARD, JUSTIN E

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	09/960,301	SHIGA, ICHIYOU
Office Action Summary	Examiner	Art Unit	
	Justin E. Shepard	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *27 January 2006*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-30* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 1/27/2006 have been fully considered but they are not persuasive.

The applicant argues (page 10, paragraph 5) that Malaure does not disclose an interactive application executed by the interactive server. The amended contains this limitation in the preamble, but not the body of the claim. The preamble states that an interactive service is "executed by a broadcasting server," while the body of the claim states that an interactive server "executes an application that provides said interactive service to a broadcasting receiver." First, the interactive server contradicts the preambles broadcasting server. Second, the limitation found in the claim states that the application running on the interactive server provides the service to the receiver. The examiner interprets this limitation as the interactive server is distributing the service. The cited art shows setup data being transmitted to a receiver and run. The rejection stands.

The applicant argues (page 10, paragraph 6) that Malaure does not disclose an interactive server, which is separate from a broadcast server. As stated in the previous paragraph, this interactive server contradicts the preamble. Malaure shows (figure 1) a broadcast server (BBC1) and an interactive server (CCS). These are obviously separate parts, and therefore the rejection stands. The limitation of the servers having different means of delivery is not claimed and is therefore not going to be considered.

The applicant argues (page 11, first full paragraph) that Malaure does not disclose the limitations of claim 3. Malaure discloses comparing extracted information (scores) with interactive service organization information (other user's scores). The rejection stands.

The applicant argues (page 11, paragraph 8) that the activation relies on the service time, and the authorization as disclosed by Malaure. In the rejection of claim 1 (of which 5 is dependent), the service time is sent down to the receiver (column 1, lines 43-45). Therefore the fact that the player would have to wait for a start time an authorization before activation meets the limitation of the claim. The rejection stands.

The applicant argues (page 12, paragraph 3), that Malaure does not meet the limitation as defined in the specification. The rejection stands, as a broad reading of the claim can be rejected using the flag disclosed by Malaure.

For the argument for claim 7, see the above response for the separate interactive server. Also the specification is not required to be read into the claims.

Claim Rejections - 35 USC § 112

Claims 1, 11 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of the claim states that a program is executed by a broadcasting server, while the body of the claims states that the program is provided by an interactive server. These statements contradict each other.

The preamble of the claim states that a broadcasting server is performing an action, while the body states that a broadcasting server and an interactive server are performing different actions.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 7-10, 17-20, and 27-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Malaure.

Referring to claim 7, Malaure discloses a method for controlling interlock of an interactive service with data broadcasting in an interactive server that provides said interactive service associated with said data broadcasting (column 1, lines 40-42) to a

broadcasting receiver, said method comprising: receiving a set of information for

specifying an interactive service and information for specifying a service time of said

interactive service from a broadcasting server in one or a plurality of broadcasting

stations (column 1, lines 43-45), wherein said broadcasting server is managed

independently from said interactive server (figure 1, parts 8 and 2); extracting a set of

information for specifying interactive service having a relation to said computer for

carrying out said interactive service and information for specifying service time of that

interactive service by using the received information for specifying said interactive

service (column 5, lines 1-8); and controlling activation and deactivation of each said

interactive service based on said extracted set of said information for specifying said

interactive service and said information for specifying said service time of that

interactive service (column 4, lines 59-67; column 5, lines 30-34)).

Claims 17 and 27 are rejected on the same grounds as claim 7.

Referring to claim 8, Malaure discloses a method as set forth in claim 7, wherein

in said step of controlling said activation and deactivation (column 2, lines 6-9), if it is

judged that a service start time has arrived based on said information for specifying said

service time, a flag of the corresponding interactive service is set ON (column 1, lines

50-53), if it is judged that a service termination time has arrived based on said

information for specifying said service time, a flag of the corresponding interactive

service is set OFF, and an interactive service is activated or deactivated based on said

flag of said interactive service (column 5, lines 30-34).

Claims 18 and 28 are rejected on the same grounds as claim 8.

Referring to claim 9, Malaure discloses a method as set forth in claim 7, further comprising the steps of: acquiring information indicating an operating state of said interactive service; and transmitting said information indicating said operating state of said interactive service to a computer associated with said data broadcasting (column 2, lines 6-9).

Claims 19 and 29 are rejected on the same grounds as claim 9.

Referring to claim 10, Malaure discloses a method as set forth in claim 9, wherein said acquiring step includes a step of specifying that the interactive service is active in a case where a response indicating that the interactive service is active is received from the interactive service (column 5, lines 1-8; Note: downloading the required application is interpreted as being equivalent to specifying that the interactive service is active).

Claims 20 and 30 are rejected on the same grounds as claim 10.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, 11-16, and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malaure in view of Hempleman.

Referring to claim 1, Malaure discloses a method for controlling interlock of an interactive service with data broadcasting (column 1, lines 40-42), executed by a broadcasting server, said method comprising: acquiring information for specifying an interactive service associated with data broadcasting (column 5, lines 14-15); transmitting said information for specifying said interactive service, which are acquired in said acquiring, to an interactive server (column 5, lines 35-37; Note: scores from an interactive game are interpreted as being equivalent to information specifying an interactive service; the system has more than one game, therefore the scoring information would have to indicate the interactive service from which it came.), which is independent from said broadcasting server (figure 1, parts 2 and 8; , and which executes an application that provides said interactive service to broadcasting receiver (column 1, lines 43-45; column 5, lines 1-8).

Malaure does not disclose a system where information specifying service time is transmitted to the interactive server.

Hempleman discloses a system where information specifying service time is transmitted to the interactive server (column 7, lines 3-5).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the service time transmission, taught by Hempleman, to the system disclosed by Malaure. The motivation would have been to enable the system to keep track of the popularity of the interactive service (Hempleman: column 7, lines 7-10).

Claims 11 and 21 are rejected on the same grounds as claim 1.

Referring to claim 2, Malaure does discloses a method as set forth in claim 1, wherein said acquiring step includes a step of extracting said information for specifying said interactive service from interactive service organization information (40-44).

Hempleman does not disclose a method as set forth in claim 1, wherein said acquiring step includes a step of extracting said information for specifying said interactive service and said information for specifying said service time from interactive service organization information.

At the time it would have been obvious for one of ordinary skill in the art to extract a timestamp, as taught by Hempleman, from the game data disclosed by Malaure. The motivation would have been that after collecting data, it is common to extract parts of the collected data to perform an action with the data (i.e. compare scores or calculate popularity).

Claims 12 and 22 are rejected on the same grounds as claim 2.

Referring to claim 3, Malaure discloses a method as set forth in claim 2, wherein said acquiring step further includes a step of extracting second information for specifying said interactive service from content information of said data broadcasting and comparing the second extracted information with said information for specifying said interactive service extracted from said interactive service organization information (column 5, lines 40-44; Note: comparing scores of different players is interpreted as being equivalent to comparing the extracted data to the interactive service data).

Claims 13 and 23 are rejected on the same grounds as claim 3.

Referring to claim 4, Malaure discloses a method as set forth in claim 1, wherein in said transmitting step, said information for specifying said interactive service, together with content information of said data broadcasting, are distributed to said computer for providing said interactive service (column 5, lines 35-37).

Malaure does not disclose a system where information specifying service time is transmitted to the interactive server.

Hempleman discloses a system where information specifying service time is transmitted to the interactive server (column 7, lines 3-5).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the service time transmission, taught by Hempleman, to the system disclosed by Malaure. The motivation would have been to enable the system to keep track of the popularity of the interactive service (Hempleman: column 7, lines 7-10).

Claims 14 and 24 are rejected on the same grounds as claim 4.

Referring to claim 5, Malaure discloses a method as set forth in claim 1, further comprising a step of generating information as to whether each interactive service must be activated at present based on said information for specifying said service time of each said interactive service, and wherein in said transmitting step, said information as to whether each said interactive service must be activated at present is further transmitted (column 4, lines 59-67; Note: authorizing a customer for a pay service is interpreted as being equivalent to activating or deactivating a service).

Claims 15 and 25 are rejected on the same grounds as claim 5.

Referring to claim 6, Malaure discloses a method as set forth in claim 1, further

comprising a step of, if information indicating an operating state of said interactive

service is received from said computer for providing said interactive service, deleting or

invalidating designation of an inactive interactive service in content information of said

data broadcasting (column 5, lines 30-34).

Claims 16 and 26 are rejected on the same grounds as claim 6.

Conclusion

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Bigham; U.S. Patent Number 6,041,056; Full Service Network Having Distributed

Architecture.

Tanaka; U.S. Patent Number 4,961,109; Chargeable Program Receiving Limit

Setting System in Two-Way Cable TV System.

Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within
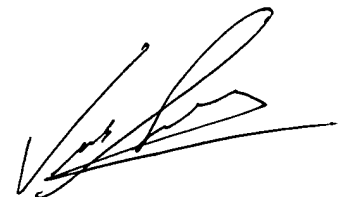
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS

VIVEK SRIVASTAVA
PRIMARY EXAMINER